IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

TUESDAY, THE 27TH MARCH 2007 / 6TH CHAITHRA 1929

LA.App..No. 670 of 2005() & C.O. No. 90 of 2006

LAR.6/1999 of SUB COURT, MANJERI

.....

APPELLANT/2nd RESPONDENT:

KERALA STATE INDUSTRIAL DEVELOPMENT CORPORATION (KSIDC) KESTON ROAD, KAWDIAR, TRIVANDRUM, REP. BY ITS SECRETARY.

BY ADV. SRI.G.S.REGHUNATH

RESPONDENTS/CLAIMANTS & 1ST RESPONDENT:

---

1. NANATH KUZHITHODIYIL MOIDEEN HAJI S/O. AYAMMED HAJI, MELMUI, MALAPPURAM, POWER-OF-ATTORNEY OF N.K. ABDUL AZEEZ.
2. N.K. HUSSAIN OF DO. DO.
3. UMMER OF DO. DO.
4. N.K. MOOSA OF DO. DO.
5. N.K. MAIMOONA OF DO. DO.
6. N.K. KHADEEJA OF DO. DO.

7. N.K. SULAIMAN, DO. DO.

8. N.K. MUHAMMED MUSTHAFA, DO. DO.

9. THE DISTRICT COLLECTOR, MALAPPURAM.

BY ADV. SRI.R. RAJESH KORMATH
ADV. SMT. MEENA. A.
ADV. SMT.M.R.MINI
ADV. SMT.SANJANA R.NAIR
ADV. SRI.V.S.ROBIN
R9 BY GOVERNMENT PLEADER ADV. SHRI MANOJ.

THIS LAND ACQUISITION APPEAL AND C.O. NO. 90 OF 2006 HAVING BEEN FINALLY HEARD ON 27/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON I.A. NO. 1773 OF 2005 IN L.A.A. NO. 670 OF 2005

DISMISSED.

27.03.2007

SD/- KURIAN JOSEPH, JUDGE.
SD/- K.T. SANKARAN, JUDGE.

/true copy/

P.A. TO JUDGE

KURIAN JOSEPH & K.T. SANKARAN, JJ.

.....

L.A.A. No. 670 OF 2005
AND CROSS OBJECTION 90 OF 2006

.....

Dated this the 27th March, 2007

J U D G M E N T

Kurian Joseph, J:

This appeal arises from the judgment and decree in L.A.R.No. 6 of 1999 on the file of the Sub Court, Manjeri. Acquisition was for the purpose of setting up of an Industrial Growth Centre at Panakkad. Reference Court has fixed the land value at the rate of Rs. 4,000/- per cent. Since the fixation has been found to be just, the connected appeals have already been dismissed by judgment in L.A.A.Nos. 800 of 2004 and connected cases .

2. Learned counsel for the cross objectors contended that the crucial evidence available in the case with regard to the importance of the locality, nearness to the road, nearness to the town etc has not been properly adverted to or appreciated by the reference court. It is the contention of the counsel that going by the report of the advocate commissioner, it can be seen that the acquired property is only 200 metres away from the road and that in view of that fact, the property should have

been categorised under Block 'A' as reported by the commissioner. Had it been in 'A' Group, the Land Acquisition Officer himself would have awarded land value at the rate of Rs.4,200/- per cent Though the cross objectors had claimed Rs. 30,000/- per cent, for the purpose of court fee, the claim has been limited to Rs. 5,000/- per cent. Thus in any case, the cross objectors cannot claim more than Rs. 5,000/- per cent

3. Yet another contention taken by the claimant is that in several cases, taking note of the importance of the locality and nearness to the road, this court has fixed the land value at the rate of Rs. 4,500/- per cent even in respect of the lands included in other groups which are situated farther to the acquired property. One such judgment is in LA.A. 771 of 2005. Reference is also invited to the judgment in L.A.A.Nos. 755 of 2005, 771 of 2005 etc. Requisitioning authority however points out that since the claimant himself has limited the claim to Rs. 5,000/-, in any case, there cannot be a claim beyond Rs.5,000/- per cent.

4. Going by the judgment under appeal, it is seen that the reference court has not adverted to the contentions taken by the claimant, some of

which are referred to above.

5. In the normal course, though the case would have been remanded to the reference court for fresh consideration, taking note of the importance of the locality and nearness to the road, this Court has sustained the market value at the rate of Rs.4,500/- per cent in similar cases, we allow the Cross Objection and fix the market value, in respect of the acquired property covered under L.A.R.No.6/99 on the file of the Sub Court, Manjeri at the rate of Rs.4,500/- per cent. The claimant will also be entitled to all the consequential statutory benefits.

Cross Objection is allowed as above. Appeal is dismissed.

KURIAN JOSEPH,
JUDGE.

K.T. SANKARAN,
JUDGE

lk